

INITIAL STATEMENT OF REASONS FOR THE  
ADOPTION OF  
REGULATION SECTIONS  
17267.2-1 AND 24356.7-1

PUBLIC PROBLEM, ADMINISTRATIVE REQUIREMENT, OR OTHER CONDITION OR CIRCUMSTANCE THAT THE REGULATION IS INTENDED TO ADDRESS

Sections 17267.2 and 24356.7 of the Revenue and Taxation Code provide that upon acquisition of a qualified asset used in an enterprise zone, the taxpayer may elect to expense forty per cent of the cost of the qualified asset in the year of acquisition.

If a taxpayer elects to expense forty per cent of the cost of the qualified asset, the basis of the asset is reduced by the amount of the expense deduction. The taxpayer is required to use the asset exclusively in the enterprise zone for a certain time period to avoid recapture of the business expense deduction. If the taxpayer fails to use, or disposes of the asset, prior to the expiration of the close of the second year after the property is placed in service, the previous expense deduction must be added back to income (recaptured) in the year of disposition or nonuse.

These proposed regulations would provide specific regulatory authority to allow a taxpayer to increase the depreciable basis of qualified property, for which a taxpayer had elected to expense forty per cent of the cost in the year in which such property is placed in service, by the amount required to be included in such taxpayer's gross income as a result of the occurrence of a recapture event.

SPECIFIC PURPOSE OF THE REGULATION

These regulations will provide clarity and eliminate ambiguity as to the correct treatment of the recaptured costs and their impact on the asset's basis.

NECESSITY

The Franchise Tax Board has determined that these regulations are necessary to clarify and eliminate ambiguity as to the correct treatment of the recaptured costs and their impact on the asset's basis and that no other alternative to these proposed regulations exists.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDIES, REPORTS, OR DOCUMENTS

The Franchise Tax Board did not rely upon any technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this regulation.

## ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON AFFECTED PRIVATE PERSONS OR SMALL BUSINESS

The Franchise Tax Board has determined that there were no alternatives considered which would be more effective in carrying out the purpose of the proposed regulation or would be as effective and less burdensome to affected private persons or small businesses than the proposed regulation.

## ADVERSE ECONOMIC IMPACT ON BUSINESS

The Franchise Tax Board has determined that there will be no adverse economic impact on business as a result of the adoption of these proposed regulations.

## UPDATED INFORMATIVE DIGEST

There has been no change in the laws relating to the proposed regulation, or the effect of the proposed regulation, from that stated in the Notice of Proposed Regulatory Action.